



AP/2800

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

#10
5-83-03
Chen

Inventor Applicant:

Steven R. Bard

Serial No.: 09/619,219

Filed: July 19, 2000

For: Providing Power From A
Power Source To A Power Sink

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Art Unit: 2857

Examiner: Manuel Barbee

Atty Docket: ITL.0417US
P9042

Mail Stop **Appeal Brief-Patents**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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REPLY BRIEF

Sir:

This reply addresses the new grounds for rejection set forth for the first time in the Examiner's Answer.

M.P.E.P. 1208.01 indicates that entry of a new ground of rejection in the Examiner's Answer is prohibited. If the Examiner believes that a new ground of rejection should be asserted, "the Examiner should reopen prosecution."

The M.P.E.P. Section 1208.01 directly addresses the situation where a new prior art reference is cited for the first time in the Examiner's Answer:

A new prior art reference cited for the first time in an Examiner's Answer generally will constitute a new ground of rejection. If the citation of a new prior art reference is necessary to support a rejection, it must be included in the statement of rejection, which would be considered introducing a new ground of rejection. Even if the prior art reference is cited to support the rejection in a minor capacity, it should be positively included in the statement of the rejection.

Date of Deposit: May 15, 2003

I hereby certify under 37 CFR 1.8(a) that this correspondence is being deposited with the United States Postal Service as **first class mail** with sufficient postage on the date indicated above and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Cynthia L. Hayden
Cynthia L. Hayden

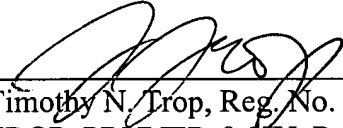
There can be no serious doubt that the grounds for the rejection in the final rejection was a Section 103 rejection based solely on Opreescu. However, in the Examiner's response to argument, the Examiner now cites Tateyama and Anderson which were never before relied on. Therefore, the reliance on these new references is improper and should be stricken.

To avoid any possibility of waiver, the Applicant declines to address these references. However, if the Board for some reason believes that the citation in the Examiner's Answer is appropriate, it is believed that the Applicant should be afforded some opportunity to address these newly cited references.

Therefore, the Applicant requests that the rejections be reversed and that the citation of new art be rejected and that the Board either decline to consider the new art or remand the matter back to the Examiner to decide whether or not the Examiner wishes to open prosecution.

Respectfully submitted,

Date: May 15, 2003



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